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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: TORTURE AND DETENTION

Written statement* submitted by the Romanian Independent Society of Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The Romanian Independent Society of Human Rights (SIRDO) is a non-governmental organisation set up in 1990 with the purpose to protect and promote human rights and fundamental freedoms, according with the principles of the UN Charter and the universal and regional conventions and treaties Romania is part to. A special attention is given to the way in which the Romanian state is preoccupied by implementing international instruments focused on the respect of human rights.

In 2001, SIRDO developed activities according with the objectives proposed:
- monitoring the respect of human rights in penitentiaries within the General Direction of Penitentiaries. We had some interviews with the prisoners in the penitentiaries where they are incarcerated and we received memoirs and letters from approximately 2000 persons who claim their fundamental rights were infringed;
- counselling and specialised legal assistance for persons who were subjected to torture, inhuman and degrading treatment, during penal investigation - in police arrest, during their deprivation of liberty sentences - in penitentiaries. The activities developed within the Legal Assistance Programme for Victims of Torture - Their Right to Remedies, Compensation and Rehabilitation, programme supported by the UN Volunteer Fund for Victims of Torture.

The high number of claims belonging to various categories of population on the means to achieve an act of penal justice in Romania reveals a flagrant incompatibility between the practices of legal authorities, the internal legal framework (Penal Code, Penal Procedure Code, normative acts and secret military rulings, etc.) and the standards for protection and promotion of human rights that are to be found in international treaties and conventions ratified by Romania and which, according with art. 11 of the Constitution, are part of the internal law.

The Parliament did not succeed to harmonise the internal laws on the freedom of person and make them coherent:
- maintaining Law no. 23/1969 on the regime of sentences depriving of freedom;
- Law no. 140/1996 brought changes and completed the Penal Code, increasing sentences depriving of liberty and the penal fines;
- maintaining orders and military secret rulings (example: order 410/1974 regimenting preventive arrest) from which even judges' access is prevented.

The penal legal framework into force in Romania practically annuls any possibility of the individual to be judged in the spirit of finding out the truth, the respect for human dignity, preventing the free access to justice. Manipulation, abuse, violence in the police arrest are applied frequently and constantly in the first 24 hours. The penal investigation bodies "force" the consent for declarations admitting the crime and, based on this, gathering the evidence. The abuse in this period may take various forms, from physical violence to more subtle means of intimidation and constraint.

The plaintiffs - victims of physical and psychological violence - in SIRDO's assistance described the way in which they were tortured, the methods used and the purpose of these treatments, sufficient to state that these practices are systematically applied by legal authorities in all country regions, being tolerated and even protected by officials by a sustained impunity policy of those guilty for committing torture, inhuman and degrading treatment.

The methods of torture the investigators use are physical and psychological violence against the incarcerated persons, blows applied all over their bodies in such a way as to present the minimum signs of violence:
- cuffing them in inhuman positions and suspending the victim (the "roller" method);
- rolling them in a wet carpet and hitting them with rubber sticks, feet or other objects;

- hitting the victim against the office furniture or the walls of the room;
- subjecting them to electric shocks by connecting the victim to a source of electric energy; the metallic conductors are applied on the arms, back, legs or even on genitals;
- psychological trauma: swearing, trivial and violent language, direct threats or concerning other persons (wife, relatives, friends), promises made in order to confuse the prisoner, make him psychologically unbalanced by exposing them to cold, starvation or even thirst sometimes.

The means used on practicing torture are: fists, feet, rubber sticks, baseball sticks, cuffs, metallic bars, chains, electric shocks generators, usual components of office furniture transformed in torturing instruments (chairs, metallic cupboard, the desk, etc.).

The purpose for applying torture, as resulted from the memoirs of the victims, is:
- obtaining from the victim or from a third person the recognition of the blame, information, confessions - in the sense desired by the investigators;
- punishment for an act which the victim or another person has committed or is suspected to have committed (more frequently in penitentiaries);
- to intimidate or pressure another person;
- determine the victim not to divulge certain aspects related to the penal process;

Although these aspects were announced to responsible factors within governmental structures (Ministry of Interior, Public Ministry, Ministry of Justice), the responses received by SIRDO are formal, reveal a superficial approach of torture in Romania and not a real involvement in the matter.

Torture affects, directly or indirectly, by its consequences, large categories of the population: men, women, underage, elders, persons belonging to national minorities, etc.

The high number of complaints on acts of torture during the penal investigations, their increasing frequency, the instauration of maltreatment in all regions, categories of population affected and the structure on age and gender, the purpose, the methods and the means of legal authorities, as well as the attitude of authorities of impunity towards those guilty of such cruel acts, are the basis of the statement that in Romania torture, inhuman and degrading treatment are a system accepted by the authorities. This system of constraint, physical and psychological violence, was transferred from communist dictatorship to the new structures of power.

Although Romania ratified, at October 9, 1990 the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, being obliged to respect its provisions, and although constitutional provisions forbid torture, the responsible authorities seem not to understand the importance, the legal power and the need to apply these dispositions, prevailing of old norms, with secret character and against constitutional provisions.

Because of abuses committed, of the purely formal approach of complaints received from the victims and of the constant refusal in admitting the existence of systematic practices of torture in Romania, we may say that authorities block the possibility of applying the right to remedy.

Given these arguments and considering the previous written statements forwarded by SIRDO at the 56th and 57th Sessions of the UN Human Rights Commission in Geneva, we demand:
- that the Human Rights Commission should consider the possibility that the Report written by the Special Rapporteur on Torture should be a guideline for the analysis of the practice of torture in Romania. The Commission must admit the mandate of monitoring the process of involving Romania, by answering each point in the above-mentioned report;

- that the participating effort of the states be urgented, using the competence of the UN Special Rapporteur on Torture, in sustaining the UN Human Rights Commission to institute the procedure of monitoring that should survey in Romania the means to solve the requests towards the Commission forwarded in SIRDO's statements (E/CN.4/2000/NGO/41, E/CN.4/2001/NGO/92 and E/CN.4/2001/2001/NGO/93);
- that art. 11 of the UN Convention against torture be put into practice and according to this article have the exercise of the systematic survey of rulings, instructions, methods and practices of the interrogatory and dispositions on the treatment of persons in any of the deprivation of freedom situations;
- that measures of rehabilitation for the victims of torture be instituted, in order to obtain necessary compensation to regain their rights, by exercising the right to remedy.